

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

John L. Rodophele, Jr.,

Plaintiff,

v.

Liberty Mutual Insurance Company, et al.,

Defendant.

Case No.: 2:14-cv-1915-JAD-VCF

**Order Granting Defendants' Motion to  
Dismiss [Doc. 4]**

Defendant Liberty Mutual Insurance Company removed this insurance dispute to federal court on November 17, 2014, and then moved to dismiss the case seven days later—arguing that plaintiff John L. Rodophele, Jr.'s claims are subject to a mandatory arbitration clause. Doc. 4. On December 16, 2014, I granted the parties' stipulation to allow Rodophele until January 5, 2015, to respond to the motion to dismiss. Doc. 10. Almost three weeks have passed since this deadline expired, and Rodophele has neither opposed the motion nor otherwise explained why he filed no response.

Liberty Mutual argues that under the arbitration provision in Rodophele's insurance contract, "any claim brought by [him] by way of his Complaint is improper." Doc. 4 at 3. The Ninth Circuit has concluded that when interpreting arbitration provision, "a district court may either stay the action or dismiss it outright where . . . the court determines that all of the claims raised in the action are subject to arbitration."<sup>1</sup> Under Nevada's Local Rule 7-2(d), "[t]he failure of an opposing party to file points and authorities in response to any motion shall constitute a consent to the granting of the motion." Rodophele's failure to oppose the motion to dismiss by the court-established deadline constitutes grounds for me to conclude that he concedes that all of his claims are subject to the arbitration provision. I decide this issue based on Liberty Mutual's Motion to Dismiss; I decline its request that I transform the motion into one for summary judgment. Thus, I grant Liberty Mutual's motion and dismiss Rodophele's claims without prejudice. I also vacate the February 9, 2015, hearing on the motion to dismiss. Doc. 6.

Accordingly, it is **HEREBY ORDERED** that the hearing currently scheduled for February 9,

---

<sup>1</sup> *Johnmohammadi v. Bloomingdale's, Inc.*, 755 F.3d 1072, 1074 (9th Cir. 2014) (citation omitted).

2015, is **VACATED**.

It is FURTHER ORDERED that Liberty Mutual's Motion to Dismiss [**Doc. 4**] is **GRANTED**. This case is **DISMISSED WITHOUT PREJUDICE**, and the Clerk of Court is instructed to close this case and enter judgment accordingly.

DATED: January 29, 2015.

  
\_\_\_\_\_  
Jennifer A. Dorsey  
United States District Judge